

1 HB121
2 78974-2
3 By Representative Newton (C)
4 RFD: Judiciary
5 First Read: 10-JAN-06
6 PFD: 01/05/2006

SYNOPSIS: Under existing law, judges, prosecutors, probation and parole officers and court personnel are not granted statewide access to juvenile and youthful offender records.

This bill would expressly provide that these persons shall be authorized to access juvenile and youthful offender records to obtain information necessary for the completion of sentencing standards worksheets and would provide penalties for the wrongful disclosure of these records.

Amendment 621 of the Constitution of Alabama of 1901 prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

1 The purpose or effect of this bill would be
2 to require a new or increased expenditure of local
3 funds within the meaning of Amendment 621. However,
4 the bill does not require approval of a local
5 governmental entity or enactment by a 2/3 vote to
6 become effective because it comes within one of the
7 specified exceptions contained in Amendment 621.

8
9 A BILL
10 TO BE ENTITLED
11 AN ACT

12
13 To amend Sections 12-15-100 and 15-19-7 of the Code
14 of Alabama 1975, relating to juvenile and youthful offender
15 records; to provide that juvenile and youthful records shall
16 be made available to judges, prosecutors, victim service
17 officers, probation and parole officers, the attorney for the
18 defendant, and court personnel in completing the worksheets
19 required for the implementation of sentencing standards; to
20 provide penalties for wrongful disclosure; and in connection
21 therewith would have as its purpose or effect the requirement
22 of a new or increased expenditure of local funds within the
23 meaning of Amendment 621 of the Constitution of Alabama of
24 1901.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Sections 12-15-100 and 15-19-7 of the
27 Code of Alabama 1975, are amended to read as follows:

1 "§12-15-100.

2 "(a) Social, medical, and psychiatric or
3 psychological records, including reports of preliminary
4 inquiries and predisposition studies, of delinquent, in need
5 of supervision and dependent children, including supervision
6 records of such children, shall be filed separate from other
7 files and records of the court and shall be open to inspection
8 and copying, only by the following:

9 "(1) The judge and probation officers and
10 professional staff assigned to serve the court.

11 "(2) Representatives of a public or private agency
12 or department providing supervision or having legal custody of
13 the child.

14 "~~(3) Any other person or agency that the juvenile~~
15 ~~court determines, after a hearing has a legitimate interest in~~
16 ~~the case or in the work of the court.~~

17 "~~(4)~~ (3) The probation and other professional staff
18 assigned to serve a criminal court, including the judge,
19 prosecutor, and the attorney for the defendant, for use in
20 completing sentencing standards worksheets and considering the
21 sentence to be imposed upon a ~~convicted~~ person charged with a
22 criminal offense, or one adjudicated a youthful offender, ~~who,~~
23 ~~prior thereto, had been a party to the proceedings in court.~~

24 "~~(5)~~ (4) The probation and other professional staff
25 assigned to serve a criminal court when investigating or
26 considering youthful offender applications.

1 "~~(6)~~(5) The parent of the child, except when
2 parental rights have been terminated, or guardian and the
3 counsel and the guardian ad litem of the child.

4 ~~(7)~~(6) The principal of the school in which the
5 child is enrolled, or the representative of the principal, and
6 other school officials as the principal deems necessary, upon
7 written petition to the juvenile court setting forth the
8 reasons why the safety or welfare, or both, of the school, its
9 students, or personnel, necessitate production of the
10 information and without which the safety and welfare of the
11 school, its students, and personnel, would be threatened.

12 "(7) Any other person, department, entity, or agency
13 that, at the discretion of the judge of the juvenile court
14 determines after a hearing, has a legitimate interest in the
15 case or in the work of the court.

16 "(b) All or any part of the records enumerated in
17 subsection (a) or information secured from the records, when
18 presented to and used by the judge in court or otherwise in a
19 proceeding under this chapter, shall also be made available to
20 the parties to the proceedings and their counsel and
21 representatives.

22 "(c) All other court records, including the docket,
23 petitions, motions, and other papers filed with a case,
24 transcripts of testimony, findings, verdicts, orders, and
25 decrees shall be open to inspection by those persons and
26 agencies designated in subsections (a) and (b).

1 "(d) Petitions, motions, court notices, or
2 dispositions shall be open to inspection by the victim or the
3 victim's representatives.

4 "(e) The access to court records provided in
5 subdivisions (3) and (4) shall not be limited to the
6 jurisdiction of the inquiring judge or prosecutor, but shall
7 be available statewide.

8 "~~(e)~~ (f) Whoever, except for the purposes permitted
9 and in the manner provided by this section, discloses or makes
10 use of or knowingly permits the use of information concerning
11 a child before the court directly or indirectly derived from
12 the records of the court or acquired in the course of official
13 duties, upon conviction thereof, shall be guilty of a Class A
14 misdemeanor within the jurisdiction of the juvenile court.

15 "§15-19-7.

16 "(a) No determination made under the provisions of
17 this chapter shall disqualify any youth for public office or
18 public employment, operate as a forfeiture of any right or
19 privilege or make him or her ineligible to receive any license
20 granted by public authority, and such determination shall not
21 be deemed a conviction of crime; provided, however, that if ~~he~~
22 the youth is subsequently convicted of a crime, the prior
23 adjudication as youthful offender shall be considered.

24 "(b) The fingerprints, ~~and~~ and photographs, ~~and~~ and other
25 records of a person adjudged a youthful offender shall not be
26 open to public inspection; ~~provided, however, that.~~ The
27 records shall be made available to all judges, prosecutors,

1 victim service officers, probation and parole officers, the
2 attorney for the defendant, and court personnel for the
3 purpose of completing the worksheets required for sentencing
4 standards, and the court may, ~~in its discretion,~~ permit the
5 inspection of papers or records by others. A wrongful
6 disclosure of the records is a Class A misdemeanor."

7 Section 2. Although this bill would have as its
8 purpose or effect the requirement of a new or increased
9 expenditure of local funds, the bill is excluded from further
10 requirements and application under Amendment 621 because the
11 bill defines a new crime or amends the definition of an
12 existing crime.

13 Section 3. This act shall become effective
14 immediately following its passage and approval by the
15 Governor, or its otherwise becoming law.